



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, SE
Washington, D.C. 20590

SEP 20 2010

Mr. Danny Shelton
HazMat Resources, Inc.
10104 Creedmoor Road
Raleigh, N.C. 27615

Ref. No. 09-0098

Dear Mr. Shelton:

This responds to your letter requesting clarification of the inspection and registration requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a person must register with the Department in order to perform a wet fluorescent magnetic particle inspection.

The answer is yes. Sections 180.407(a)(3) indicates that any person who witnesses or performs a test or inspection specified in § 180.407 must meet the minimum qualifications prescribed in § 180.409, which include registration with the Federal Motor Carrier Safety Administration (FMCSA) in accordance with Part 107, Subpart F of the HMR. In addition, § 180.409 indicates that, except as otherwise provided in § 180.409, any person who performs or witnesses a test required by § 180.407(c) must be registered with the FMCSA. Section 180.407(c) requires performance of the pressure test. Under the pressure test requirements in § 180.407(g)(3), certain MC 330 and MC 331 cargo tanks used for the transportation of liquefied petroleum gas or anhydrous ammonia are required to be inspected by wet fluorescent magnetic particle examination. Furthermore, the wet fluorescent magnetic particle examination must be performed in accordance with Section V of the ASME Code and CGA Technical Bulletin TB-2 immediately prior to and in conjunction with the performance of the required pressure test.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Nickels
§180.407
§180.409
Cargo Tanks
09-0098

Supko, Ben <PHMSA>

From: Rach, Suzanne <FMCSA>
Sent: Wednesday, April 29, 2009 7:54 AM
To: Supko, Ben <PHMSA>
Cc: Simmons, James <FMCSA>
Subject: RE: Question from Danny Shelton

Good morning,

James would like to circumvent any future repercussions regarding Mr. Shelton's inquiry by requesting that PHMSA and FMCSA concur jointly on the final response. Could you please draft an official response for Mr. Shelton?

I apologize for the extra work, but we feel it best to present a joint decision in this matter. Thank you for your time and patience in this matter,

Suzanne Rach
Engineer
Office of Enforcement and Compliance
Hazardous Material
202-385-2307

From: Supko, Ben <PHMSA>
Sent: Monday, April 27, 2009 2:13 PM
To: Rach, Suzanne <FMCSA>
Cc: Simmons, James <FMCSA>; Foster, Glenn <PHMSA>
Subject: RE: Question from Danny Shelton

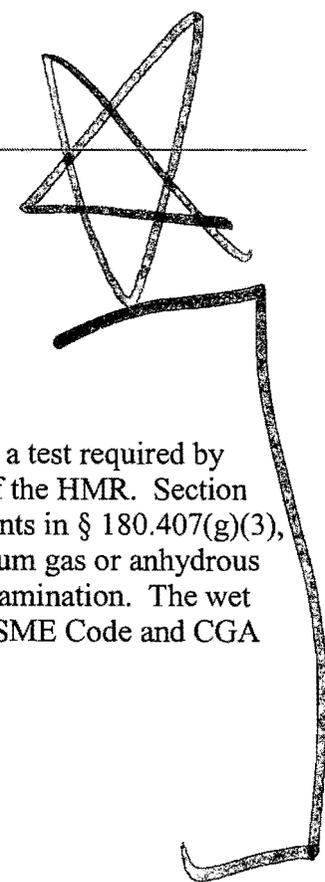
Suzanne,

Sections 180.407(a)(3) and 180.409 indicate that any person who performs or witnesses a test required by § 180.407(c) must be registered with FMCSA in accordance with Part 107, Subpart F of the HMR. Section 180.407(c) requires performance of the pressure test. Under the pressure test requirements in § 180.407(g)(3), certain MC 330 and MC 331 cargo tanks used for the transportation of liquefied petroleum gas or anhydrous ammonia are required to be inspected internally by wet fluorescent magnetic particle examination. The wet fluorescent magnetic particle inspection must be in accordance with Section V of the ASME Code and CGA Technical Bulletin TB-2.

I hope this helps,

Ben

From: Rach, Suzanne <FMCSA>
Sent: Thursday, April 23, 2009 8:28 AM
To: Supko, Ben <PHMSA>; Foster, Glenn <PHMSA>
Cc: Simmons, James <FMCSA>



Subject: Question from Danny Shelton

Mr. Shelton will want something more official and probably more concrete than what I can tell him. I'm assuming this is regarding HM-213C;

All wet fluorescent magnetic particle examinations shall be performed by persons registered with the Department in accordance with 49 CFR 107.503 and qualified on the procedures in accordance with Section V of the ASME Code

Do either of you have anything more official I can tell him regarding this?

From: Simmons, James <FMCSA>
Sent: Wednesday, April 22, 2009 3:04 PM
To: Rach, Suzanne <FMCSA>
Subject: Fw: Question

Could you please handle this for me?

Thanks

Jos

From: Danny Shelton <dgshelton@nc.rr.com>
To: Simmons, James <FMCSA>
Sent: Tue Apr 21 11:34:12 2009
Subject: Question

What is the status of a person being able to register with the Department to perform a wet mag inspection?

All wet fluorescent magnetic particle examinations shall be performed by persons registered with the Department in accordance with 49 CFR 107.503 and qualified on the procedures in accordance with Section V of the ASME Code page 199 180.413